

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

JONATHAN COHEN, SANDRA  
FABARA, STEPHEN EBERT, LUIS  
LAMBOY, ESTEBAN DEL VALLE,  
RODRIGO HENTER DE REZENDE,  
DANIELLE MASTRION, WILLIAM  
TRAMONTOZZI, JR., THOMAS  
LUCERO, AKIKO MIYAKAMI,  
CHRISTIAN CORTES, DUSTIN  
SPAGNOLA, ALICE MIZRACHI,  
CARLOS GAME, JAMES ROCCO,  
STEVEN LEW, FRANCISCO  
FERNANDEZ, and NICHOLAS KHAN,

Case No. 13-CV-5612(FB)(RLM)

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON  
AVENUE OWNERS, L.P., 22-52  
JACKSON AVENUE, LLC, ACD  
CITIVIEW BUILDINGS, LLC, and  
GERALD WOLKOFF,

**MEMORANDUM AND ORDER**

Defendants.

-----X

MARIA CASTILLO, JAMES COCHRAN, Case No. 15-CV-3230(FB)(RLM)  
LUIS GOMEZ, BIENBENIDO GUERRA,  
RICHARD MILLER, KAI  
NIEDERHAUSEN, CARLO NEIVA,  
RODNEY RODRIGUEZ, and KENJI  
TAKABAYASHI,

Plaintiffs,

-against-

G&M REALTY L.P., 22-50 JACKSON

AVENUE OWNERS, L.P., 22-52  
JACKSON AVENUE, LLC, ACD  
CITIVIEW BULIDINGS, LLC, and  
GERALD WOLKOFF,

Defendants.

-----X

*Appearances:*

*For the Plaintiff*

ERIC BAUM  
ANDREW MILLER  
Simon Eisenberg & Baum LLP  
24 Union Square East, 5th Floor  
New York, NY 10003

*For the Defendant*

DAVID G. EBERT  
MIOKO CATHERINE TAJIKA  
Ingram Yuzek Gainen Carroll &  
Bertolotti, LLP  
250 Park Avenue, 6th Floor  
New York, NY 10177

**BLOCK, Senior District Judge:**

Defendants, via letter, filed a copy of a supersedeas bond with the Court in the amount of \$6,750,000.00. Federal Rule of Civil Procedure 62(d) provides “if an appeal is taken, the appellant may obtain a stay [of enforcement of judgment] by supersedeas bond . . . . The stay takes effect when the court approves the bond.”

Typically, such bonds cover the judgment amount, costs, interest, and damages for delay. 11 Charles Alan Wright & Arthur R. Miller, Fed. Practice & Proc. § 2905 (3d ed. 2017). However, courts may approve a lower amount, or indeed, waive the bond requirement altogether, “if doing so does not unduly endanger the judgment creditor’s interest in ultimate recovery.” *Morgan Guar. Trust Co. of New York v. Republic of Palau*, 702 F. Supp. 60, 65 (S.D.N.Y. 1988); *see also See In re Nassau Cty. Strip Search Cases*,

783 F.3d 414, 417 (2d Cir. 2015) (approving waiver of bond requirement).

While defendants' proposed bond covers only the amount of judgment, the Court is satisfied that defendants, well-financed real estate companies and their wealthy owner, will be fiscally able to pay interest and costs after the appellate process ends. Therefore, the proposed bond is approved, and enforcement of judgment is stayed pending appeal.

**SO ORDERED**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
March 15, 2018